

Written Statement
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on
Syria and the Oil for Food Program
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Subcommittee on the Middle East and Central Asia
and
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of the
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Thank you for giving me this opportunity to share my views and concerns regarding Syria and its role in undermining of the United Nation's oil for food program. You have already given great attention to the oil for food program and how it was turned from providing the Iraqi people adequate and equitable access to civilian and humanitarian goods into a corrupted channel easily manipulated for the benefit of Saddam and his cronies. This process of corruption was, in part, the result of serious flaws in the program concept itself. But, much blame must also be placed on those responsible for its oversight, and those that sought to take advantage of the program for their own avarice, greed, or narrow political interests. Looking back, we can see clearly how Saddam Hussein and his cronies took advantage of the flaws in the program and how easy it was for him to find willing partners outside Iraq to help him bilk or otherwise circumvent it.

My testimony today deals with Syria, and the role Syria played in undermining both the oil for food program and the underlying sanctions on Iraq. My knowledge stems from first hand experience in trying to put together a re-energized Iraq sanctions program during the 2000-2001 time frame. The failure of those efforts, I believe, inevitably contributed to the atmosphere which led to the Iraq War.

The oil for food program, you will recall, was established within the context of broad internationally agreed sanctions against the Saddam Hussein regime. These sanctions were imposed following Iraq's invasion of Kuwait. They were continued, after the Gulf War, in response to Saddam's continuing aggressive posture, his support for international terrorism, his outrageous human rights abuses, and his attempts to acquire weapons of mass destruction. The rationale for these sanctions was clearly defined in UN Security Council Resolution 687 (1991) and reiterated and re-enforced in subsequent resolutions.

When the oil for food program was first proposed in Security Council resolution 706 of August 15, 1991 it laid out a simple and direct control mechanism. Iraq would be allowed to export up to \$1.5 billion worth of oil during a six month period. Further allotments would be accorded for additional six month periods as warranted. Saddam rejected this program outright. He chose to hold his own people hostage and use their deteriorating humanitarian situation as a bargaining chip to press for sanctions removal. And this gambit, in time, resulted in increased international pressure on the US and other Security Council members to loosen the sanctions. Against this pressure, the Security Council agreed to restructure the oil for food program in 1996 to meet several of Saddam's preconditions. These concessions left Saddam with the authority to allot oil lifting contracts and to pick and choose between humanitarian and civilian goods suppliers. And it gave him the tools he needed to corrupt the process. Nevertheless, at the time it was felt that resolution 986 (1995) setting up the new oil for food program provided sufficient safeguards to impede any such overt manipulation.

These safeguards were to be based on a close review of the bona fides of the oil lifting companies among which Saddam could choose. Special oil contract overseers and the 661 Committee were also to be responsible for validating each contract according to quantity and price. The funds generated were to be deposited in a special escrow account and disbursed only upon UN authorization.

Iraq's contracts for civilian and humanitarian goods were also made subject to 661 committee review. And the goods imported against such contracts were supposed to be verified by a reliable UN appointed inspection service. In addition the multilateral interdiction force established at the time of the Gulf war was directed to intensify its patrol of Aqaba and the Persian Gulf to police against illicit Iraqi oil exports and other attempts to circumvent the program. This is what was planned. This is not what occurred! The basic controls so important to the maintenance of the program were, from the outset, loosely applied, or simply overlooked, and the front line states, to varying degrees, simply decided to ignore them. Saddam quickly gained the upper hand in manipulating and governing this operation.

Even before the oil for food program was in place, Syria was showing ambivalence toward the oil for food program and sanctions itself. The sanctions were highly unpopular in Syria, and the Syrians felt little compulsion to respect them. Syria shares a 300 mile border with Iraq offering numerous opportunities for contraband and smuggling. Syria's ports were unfettered by the MIF operations which covered Jordan's Aqaba port and the Persian Gulf, and profits could be made. It's not clear to what extent Hafez Al-Assad, who had his own axe to grind with Saddam, really frowned on this cross border trade.

But, in any event, relations between Syria and Iraq were already warming when the oil for food program began. In June 1997 Syria opened new trade relations with Iraq and officially opened the three major border crossings points for trade. They also invited an exchange of trade delegations. In July 1998, Syria and Iraq signed a memorandum of understanding for the repair and reopening of the Banias --Kirkuk oil pipeline. That pipeline had been closed since the 1982 Iran-Iraq War and needed extensive rebuilding and repair. This entailed considerable investment by both parties, and was a clear signal that both already had an eye on circumventing the oil for food program. The pipeline actually began operating in April 2000 (although it was not officially opened until November 2000). It quickly established itself as a major source of revenue, illicit or not, for both countries. Running at its full capacity, the pipeline could pump 200,000 to 250,000 barrels per day, generating in excess of \$1 billion a year.

By the spring of 2000 UN sanctions on Iraq were unraveling. The sanctions were being violated openly and on a regular basis. The United States was under enormous international pressure to scrape or restructure them. Even our closest allies were critical of the unintended impact they were having on the Iraqi people. Three permanent Security Council members, France, Russia and China, were pushing for agreement on an expanded list of exempted items. They also wanted a significant reduction in the list of red-lined goods (sensitive dual use and military items) that could not be exported at all to Iraq. By September 2000, Russia threatened to resume direct cargo flights to Baghdad in violation of sanctions, and Syria, Algeria and other countries began regular air cargo service to Baghdad in violation of the sanctions. Ostensibly these planes carried only “humanitarian goods,” but no UN inspectors were present to verify them.

In this climate of crumbling sanctions, Syria, in May 2000, took up an Iraqi offer, extended also to other Middle East countries, to negotiate a preferential trade protocol. In Syria's case, this included special additional incentives involving the use of the Baniyas pipeline. The protocol was signed in Baghdad in May 29th, 2000. Under its terms, Syria would buy Iraqi oil at a \$6.00 per barrel discount. The oil would ostensibly be for Syria's own use, freeing up Syrian oil for export at full market rates and generating a comfortable profit. The excuse was that Jordan already enjoyed a special "wink of the eye" exemption to import Iraqi oil for local consumption. Iraq's share of the funds generated by these transactions (which included the oil purchase price as well as "under-the-table kickbacks"), would be deposited in special accounts designated by Iraq. Under the Protocol, 60% of these Iraq's earnings would be deposited in a SOMO controlled account in the Commercial Bank of Syria. These funds would, ostensibly be used to buy Syrian goods or foreign-made items purchased through Syria. The remaining 40% would go into special accounts designated by Iraq authorities. These special accounts were maintained in Syria, Lebanon, Iraq and elsewhere. According to the Iraq Survey Group Report, some \$2.8 billion was retained by Iraq under this arrangement. And all of these funds were available for use to circumvent the sanctions and the oil for food program.

The Syria Protocol Agreement was further expanded in January 2001 with the signing of a new Iraq-Syria Free Trade Agreement. This agreement completely flouted the UN sponsored Iraq sanctions. And Syria began openly to export to Iraq a broad range of consumer goods (most of which were manufactured elsewhere). This extensive trade

also provided a convenient cover for Iraq's acquisition via Syria of sensitive military and dual use equipment.

There were many indications during this period that Syria was cooperating with Iraqi defense and security agencies, and that Syrian companies were acting as fronts, or on behalf of Iraqi government entities wishing to acquire red-lined items. Many of these suspicions were borne out by the investigative work undertaken after the Iraq war by the Iraq Survey Group. We now know, for example, that Iraqi government security and military agencies were in regular contact with Syrian companies and that they used funds generated under the Iraq-Syria Trade Protocol, to circumvent the sanctions. According to the Survey Group Report, one Syrian company, SES International, alone received some \$187 million in Iraq defense/security contracts. That firm reportedly served as the primary facilitator for the transshipment of weapons and munitions through Syria to Iraq. SES International is owned by Dhu al-Himma Shalish, a cousin and close personal friend of Syrian President Bashar al-Asad. The Survey Report notes that "Shalish traveled to Baghdad to coordinate shipments of weapons and sometimes received cash payments. At other times, the Iraqis reimbursed Shalish by transferring funds from their overseas accounts to an SES account in Syria." The U.S. Treasury Department designated SES International, along with Shalish and several of his colleagues as sanctions violators only last month, on June 9, 2005. This designation ordering the freezing of their assets and bank accounts in the United States. US persons were also prohibited from dealing with them. However, it's unclear whether any SES International or Shalish assets were ever located under U.S. Jurisdiction.

There are numerous other examples contained in the Iraq Survey Group of complicity between the Iraqi military and intelligence services and high ranking Syrian government officials implicated in fronting for Iraq to obtain military equipment, munitions and other redlined items. Some we knew about, some we suspected, and some we didn't.

These financial and trade arrangements were in clear and direct violation of UN sanctions and the oil for food program. But, Syria got away with it. And they got away with it because nobody seemed to really care. No one was willing to take any action, or put any real pressure on Syria to stop. In fact, only months after Syria opened full trade with Iraq, in clear violation of the UN sanctions, and after the 9/11 attacks, Syria was elected to serve on the Security Council. Syria received 160 positive votes and had the unanimous support of the Asia/Middle East bloc in the UN General Assembly. She took her seat on the Security Council on January 2002. And even while on the Security Council, Syria continued to increase the amount of Iraqi oil pumped through the pipeline and to expand trade relations with Iraq in violation of the sanctions.

On December 16, 2000, Colin Powell, just after being selected by President-Elect Bush to serve as Secretary of State, told a press conference that “re-energizing” the sanctions on Iraq would be among his first priorities. Secretary Powell traveled to Syria in February 2001 to discuss the Iraq sanctions and to press Syria for sanctions compliance. He obtained Bashir al-Assad’s promise to cap Iraq oil exports via Baniyas and to place the resulting funds in a UN approved escrow account.

I was asked to follow up on this Powell visit and to develop a new streamlined or “smart” Iraq sanctions program. We were instructed to develop a program that would retain pressure on the Saddam regime, protect against his acquisition of WMD, and curtail his access to unregulated funds. We also had to be able to sell the program to the Perm 5, and the Security Council as a whole. We hoped to use this program to salvage the sanctions and retain real political and economic pressure on Saddam and his cronies. It was clear this would be a very difficult task and, even then, we would have to apply great pressure on the front line states -- Syria, Jordan and Turkey -- to comply. I worked on this project for the next six months, until I retired in September 2001.

Together with NEA Assistant Secretary Ned Walker, I visited Amman, Damascus and Ankara in April 2001 for talks on the details of our new “smart sanctions” program. In Syria we met with Foreign Minister Farouk al-Shara. But al-Shara wasn't interested in talking about sanctions. Instead, he lectured us for two hours on the Palestinian intifada and alleged Israeli injustices. I don't think he expected anything to come from this diatribe. He used it as a diversion from talking about Iraq. For Syria had no intention of dampening its new profitable oil and contraband trade with Iraq. In fact, al-Shara reportedly used his own influence on Bashir al-Assad to assure that Syria would continue to move ahead with closer Iraq ties. With some sense of personal peril I still presented him our white paper. I also used the very few minutes he left to us to provide a short presentation on our proposals. “Come back and see me once you have UN Security Council approval,” he said and quickly left the room.

Let me tell you what we had in mind.

The package of sanctions my colleagues and I worked up was based on three assumptions:

1. Sanctions were critical to our policy of containing Iraq.
2. Sanctions should be directed principally at stop Saddam from hardening his military capabilities or from acquiring WMD.
3. The impact of the Sanctions impact should be directed at the Saddam regime itself while avoiding undue hardships on the Iraqi people.

The first element in our “smart sanctions” package was to fast track approval for civilian and humanitarian goods. Contract approval for such items could be expedited by using a “no objection” procedure. This would mean that most contracts would be approved within a few days after their submission. However, we also intended to institute new post shipment accounting and verification procedures to limit graft and kickbacks. Under our proposals, the 661 Committee would review only a short list of green line (dual use) items. Sensitive dual use and military items would be red-lined and turned down automatically. We expected these measures would reduce processing delays and mitigate the costs and burdens involved.

An essential element of the program was to re-gain control over the funds generated by Iraqi oil sales. We hoped to do this by stamping out Saddam's various oil for food pricing schemes. The eventual solution was to impose a retroactive oil pricing mechanism that eliminated lifting fees and built-in kickbacks. We also suggested a

revision of the list of companies approved to lift Iraqi oil. We argued that the list should be pared down significantly to eliminate pure middle-men as well as companies we knew to have engaged in pricing schemes, graft or kickbacks. Companies on the list would be held accountable.

We also directed our attention at the schemes Saddam had used to circumvent the Oil for Food program. Under our program the MIF would flex its muscles in the Persian Gulf to better inhibit Iraq's ability to use that route to sneak oil out.

The program we presented to Syria, Jordan and Turkey would have continued to permit them to receive Iraqi oil. However, the funds attributed to these transactions would have been placed in local escrow account to be administered jointly by the UN and local authorities. These funds could be used to purchase items in the local economy, including imported items. But the items purchased would be subject to verification and redlined items excluded. We also planned to establish special Sanctions Assistance Missions that would help control contraband moving across the borders.

The first step in our proposed strategy to win support for these streamlined sanctions was to try and re-establish some credence behind enforcement of the current sanctions. It had to be clear that we would no longer tolerate open sanctions violations, such as those occurring in Syria. We suggested that Syrian and other firms fronting for Saddam cronies, or otherwise implicated in routine kickbacks to the Saddam regime, be designated pursuant to a new IEEPA executive order and that we seek agreement for designation also at the UN level. This approach had worked well in dealing with the

Milosevic regime in Serbia. And such an approach would give us at least some leverage in selling the new sanctions package. We could trade off enforcement of the old sanctions for adoption of the new “smart sanctions” model. For my group it was clear that we would not be able to sell this new package if the front line states and others continued to believe that they faced no consequences for violating sanctions. Even Saddam Hussein indicated a preference for the old, broader sanctions system which he had already corrupted to the new proposals we were putting on the table.

So. What happened?

Our colleagues in the geographic and functional bureaus at the State Department liked our sanctions proposals, but dismissed our tactics. Our group wanted to press ahead with re-invigorating the old sanctions, while negotiating on the new ones. The powers that be preferred that we distance ourselves from the old sanctions which, they argued, had already been tainted as having caused undue suffering in Iraq. They maintained that the only way to convince the world to adopt a fresh sanctions approach was to forget about the old sanctions. They recommended that Secretary Powell focus attention only on the importance of stopping Saddam from obtaining WMD, and let the rest of the sanctions issues slip. And that is the line the Secretary took. In March 8, 2001, for example, he told the Senate Foreign Relations Committee:

“We were being accused and we were taking on the burden of hurting Iraqi people, hurting Iraqi children, and we needed to turn that around. The purpose of these sanctions was to go after weapons of mass destruction. That's what they were put in place for in the first instance back at the end of the Gulf War....In order to make sure that that carried forward, we then had to take a look at the sanctions themselves. Were they being used to go after weapons of mass destruction and was that the way they were connected to our original goals, or, increasingly, were those sanctions starting to look as if they were hurting the Iraqi people? And it seems to me one approach to this was to go to those sanctions and eliminate those items in the sanctions regime that really were of

civilian use and benefited people, and focus them exclusively on weapons of mass destruction and items that could be directed toward the development of weapons of mass destruction.”

A second area of divergence was whether or not to hard press the front line states regarding their lack of compliance with the sanctions, particularly Iraq oil exports outside the oil for food program. Against our advice, the prevailing view was that we concentrate our efforts in gaining UN Security Council approval at the next regularly scheduled Iraq sanctions review session rather than press heads now on sanctions and oil for food violations. That Security Council meeting was scheduled for June 1, 2001.

A third disagreement surfaced as to whether or not we should work out specific details regarding the procedures to be used to govern our proposed new local escrow account and trade procedures. Once again my small group was overruled. The decision was that we should keep our proposals as general as possible to facilitate winning Security Council approval. The details, they argued, could be filled in by a Security Council Committee thereafter.

Absent any attendant leverage, such as threatened enforcement of the old sanctions, it proved exceedingly difficult to win Security Council approval for the new proposals. In fact, the only leverage seemed to be on the other side. We had allowed the old sanctions to pretty much collapse. We were now the ones that needed Security Council approval for the new measures. The old measures no longer carried any weight. China, Russia and France had us over a barrel, and they began to push for a much greater reduction in the list of so-called redlined items than we were willing to concede. And other members of the Security Council joined in demanding further details concerning the special preferential arrangements we had in mind for the front line states. Comfortable with the

old (no longer enforced) sanctions, and faced with a threatened Russian veto, the Security Council simply postponed consideration of the new sanctions proposals. The agenda item was rescheduled for the next regular six month review of Iraq sanctions. That was to take place in November 2001. And once again, at the November 2001 meeting, the decision was to push consideration back for another six months. The second Security Council postponement prompted me to write an opinion piece which was published by the Washington Post on December 31, 2001. I have attached a copy as an appendix to my written statement. By the time the Security Council got around to the issue again we were already well on the road to a broader confrontation with Saddam Hussein.

I think we were all aware during this entire period, and right up to Operation Iraqi Freedom, that the sanctions were being left to deteriorate and that the oil for food program was operated as little more than a sham. Saddam continued to rake in money outside of the Oil for Food program and to spend it as he pleased. And the Kirkuk Baniyas pipeline continued to operate at full capacity right up to the outbreak of hostilities.

Thank you, Mr. Chairman.

Appendix to Written Testimony of Victor D. Comras

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Shoving Saddam Back in His Box

By Victor D. Comras

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While things have gone well in Afghanistan in recent weeks, in another arena, far from the war zone, the United States has suffered a serious setback in its efforts to fight terrorism and keep weapons of mass destruction out of terrorist hands. The U.N. Security Council once again has turned down Secretary of State Colin Powell's call to recalibrate the sanctions on Iraq and make them an effective obstacle to Saddam Hussein's program for producing weapons of mass destruction.

Many argue that Iraq's support for terrorism, mixed with its program for developing such weapons, poses an intolerable risk. Yet we have just agreed with the Russians that we can postpone for another six months taking steps to cut off Iraqi access to this weapons technology and equipment. (The delay is so we can renegotiate the list of items to be kept out of his hands, a matter supposedly decided months ago, when the United States first laid its new Iraq sanctions proposal before the Security Council -- but apparently not yet to Russia's satisfaction.)

In the meantime, we have allowed the old sanctions on Iraq to disintegrate to the point at which Saddam Hussein's regime is content to leave them in place rather than face sanctions that are pared down but might have some teeth. The current sanctions are not being well enforced, and they leave the Iraqi dictator with an almost open door to buy and bring in the technology and equipment he wants to strengthen and harden his military and capability for weapons of mass destruction. And there is much evidence that this is exactly what he is doing.

Colin Powell committed himself to "re-energize" the Iraq sanctions when he joined the new administration last January. In March he told Congress we would push for a new sanctions package concentrating on items related to weapons of mass destruction -- the stuff that really counts. We would begin, he said, by cutting off Iraq's smuggling outlets through the Arab front-line states and controlling Saddam Hussein's money flow.

Powell traveled to the Mideast twice last spring to win agreement for this plan from the front-line states, which pledged to better monitor the flow of goods into Iraq and to cut off illegal oil exports from Iraq. But nothing was done. In fact, cross-border trade with Iraq increased, and Iraqi oil exports, with the help of the pipeline through Syria, expanded to record levels.

The U.N. sanctions on Iraq had been decaying for years, and in the past year, they collapsed. This was in part because of U.S. neglect. This country signaled an abandonment of the old sanctions regime before it had a new regime in place. We relaxed pressure on Jordan, Syria and Turkey to curb trade with Iraq. And we gave France, Russia and China increased leverage over us to reduce the list of controlled items. U.S. failure was clear six months ago, when Russia derailed our new approach with a threatened veto. Since then, the United States has done little or nothing to strengthen its hand -- no new initiatives with the front-line states, no work on methods for carrying things through, no new pressure on Russia. In fact, we put the issue on a back burner. Little surprise then, that we came out with the same results when the Security Council took up the matter again on Nov. 30, as it does every six months.

The Sept. 11 attacks make it clear that terrorist states' access to weapons of mass destruction poses the greatest threat to our national security. We cannot wait another six months. We have to decide now whether to choose a military option or to seek some flexibility and time by cutting off -- or at least slowing -- Saddam Hussein's weapons program.

We do not need a new Security Council resolution to do this. Existing U.N. sanctions resolutions give us more than enough authority to take the necessary steps -- resolutions binding on all states. We must make it clear to all that we view these measures as critical to our war on terrorism.

The first step must be to inhibit Saddam Hussein's ability to obtain funds or conduct financial transactions outside the U.N. oil-for-food system. Special attention should be focused on Iraq's Rafidan Bank, which has branches in Jordan, Syria and Lebanon. It is an Iraqi government-controlled entity, long engaged in financial transactions that violate U.N. sanctions.

We need to pressure Syria to stop acting as Iraq's surrogate for exporting oil outside the U.N. system. The Syrian pipeline that reopened last year brings in more than 150,000 barrels of Iraqi oil per day. This is in addition to the Iraqi oil being trucked to Syria, Jordan and Turkey outside the U.N. program. It's also time to place restrictions or punitive measures on any international oil company that circumvents the oil-for-food program.

We must work more closely with our allies to define the core list of items with direct relevance to weapons of mass destruction. Exporting countries must adhere to new control procedures. And we must be able to verify overall compliance. We should press the European Union countries and others to ensure that adequate penalties are in place, including establishment of a "blacklist" of individuals and firms circumventing the new control measures.

We cannot rely just on the work of the Multilateral Interdiction Force that patrols the Persian Gulf and the Gulf of Aqaba to stop U.N.-controlled goods from arriving in Iraq. Jordan, Syria and Turkey also must do their part to inspect items transshipped to Iraq from their countries. This is no easy task. We can help by providing the resources and technology for this effort. We should be able to rely on Turkey -- a NATO ally. If Jordan and Syria cannot filter these items, we (and our allies) must filter them before they get to Jordan or Syria.

Our success inevitably will depend on our organizing ourselves to sustain interest in this program. We will have to constantly monitor, verify adherence and pester and persuade other countries to take the control measures seriously.

Of course, we have another option. We can rely on direct military action in Iraq to take down Saddam Hussein's weapons capabilities. But this course would have its own costs and consequences.

The writer, recently retired from the Foreign Service, coordinated the international enforcement of sanctions against Serbia.